

Application No. 09/940558
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Amendment
Attorney Docket No. S63.2B-9482-US01

Remarks

This Amendment is in response to the Office Action dated **June 18, 2004**. Each issue in the official action is discussed below.

§103 Rejections

Claims 63-67 and 70-76 were rejected under 35 USC §103(a) as being unpatentable over Saitou et al. (US 6451005) in view of Smith et al. (US 6531559).

Although Applicant disagrees with the rejection, to further prosecution, claim 63 has been amended by incorporating the subject matter of claim 68. Since the present rejection does not apply to claim 68, the rejection is overcome.

Because claim 68 was rejected in paragraph 6 of the official action and due to the incorporation of claim 68 into claim 63, Applicant addresses the merits of the rejection of claim 68 in response to the present rejection. Claim 68 was rejected under 35 USC §103(a) as being unpatentable over Saitou et al. (US 6451005) in view of Smith et al. (US 6531559) as applied to claim 63, and further in view of Garabedian et al (US 6508805).

In response, Applicant asserts that, under 35 USC 103(c), Garabedian et al (US 6508805) can not be used as prior art because, as conspicuously stated below, the rejected claimed invention of the present application and Garabedian et al (US 6508805) were owned by the same entity or subject to an obligation of assignment to the same entity at the time of invention.

Claims 68-69 were rejected under 35 USC §103(a) as being unpatentable over Saitou et al. (US 6451005) in view of Smith et al. (US 6531559) as applied to claim 63, and further in view of Garabedian et al (US 6508805).

Claim 68 has been canceled and the subject matter therein has been incorporated into claim 63. The merits of the rejection are discussed above. Claim 69 is now dependent upon claim 63.

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Common Ownership Statement Under §103(c)

The invention defined by claims 63-76 and Garabedian et al (US 6508805) were, at the time the invention in the cited claims was made, owned by or subject to an obligation of assignment to the same entity.

The application is now believed to be in condition for allowance. If any further issues arise, the Examiner is invited to contact the undersigned.

Respectfully submitted,

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